



MASSACHUSETTS 01720

Acton Cemetery Department Board of Commissioners

April 9, 2012

Town of Acton
Planning Board
472 Main Street
Acton, MA

The Cemetery Commissioners are responding to the Central Street proposal that is adjacent to the Mount Hope Cemetery.

The submitted plan proposes to construct an access road and three houses along the Summer Street side of Mount Hope on a parcel of property that now or formerly was owned by Paul and Joy Madden of 12 Summer Street and we will refer to it as the Madden property.

A portion of the Town's cemetery land was acquired as a result of the Annual Town Meeting in April 1887 and under Article 16, it was "Voted that the Selectmen and Cemetery Committee be authorized to purchase land to increase the size of Mount Hope Cemetery." This became the parcel that abuts the Madden property. It was purchased for the sum of \$900. from James W. Hayward. The transaction appeared as a Cemetery Expense in the 1891/92 Annual Town Report on Page 9.

The following year, Horace F. Tuttle was paid \$13.95 to make a "Plan of Mount Hope Cemetery". This plan is the basis of the current layout of the cemetery and with updates, continues to be utilized to this day. It delineates some of the Madden property lines and in 1930, the plan was updated by adding feet in preference to the former units of measure found on the 1893 plan.

Much later, another survey and plan of Mount Hope by Grever & Ward, Cemetery Planners, was created to provide layouts for new sections of Mount Hope and included some of the Madden property as an area for acquisition and future development. This survey includes roads and grave locations up to the property line, something that will likely become a problem if the three houses are built.

The proposed development is based on a survey by Stamski & McNary in 2011. The survey includes a pie shaped piece of land as belonging to the Madden property and is approximately one half acre in size. The new survey includes the back portion of the G.A.R. lot, a rather large deeded parcel that belongs to the heirs of the members of the Isaac Davis Post, 138 Grand Army of the Republic and is outlined by four granite markers. Currently, we have not found a plan for this parcel to identify who is buried there. We feel that this matter should be reviewed by Town Council as a part of the current review process.

In addition, this parcel is the destination of the Memorial Day Parade when it enters Mount Hope. The plan before you places the access road in the area of the G.A.R. land and the first house just to the left of the G.A.R. parcel behind the white chapel.

Constructed on the disputed portion is a combination garage and workshop. The Grever & Ward survey indicated that the property line cut through the northeasterly rear corner but the new survey contends that the front of the building is about 20 feet over the line. A second structure that Grever & Ward identified, was an earlier tool shed constructed about 1897 and since destroyed by fire.

The area around the shop and garage contain elements from curbs and corner markers for roads that have been eliminated and grassed in. These are stored on this property along with the contents of the tool shed/garage and will have to be removed if it is not cemetery property.

We know that Horace F. Tuttle was involved with the purchase of the Mount Hope land as a Cemetery Committee member but he was also the surveyor who prepared the plan, the Town Clerk recording the deeds for this cemetery, and was certainly well known to James W. Hayward and his family. The Madden property remained in the custody of various members of this family until Arlene Hayward Snyder sold it to the Maddens. For this reason, we find it hard to believe that there is a problem with the Tuttle survey. The latest surveyor did not refer to our plans since the dimensions, angles and property lines do not agree.

The abutters list as provided by the Town lists all the abutters of the property from the standpoint of ownership but not considered are the individual cemetery lot owners. The lots are sold by us, a deed issued and the transaction is recorded with the Town Clerk. None of the lot owners have been advised, nor will they be aware that the area is to be developed. As Cemetery Commissioners, we have an obligation to try and protect the interests of the lot owners, therefore, we are advising you of this omission. We are also of the opinion that marketing grave spaces adjacent to homes will be difficult and the Town will suffer in this respect. The 1978 survey was developed to provide for future development, one that made maximum use of the land and provided for a couple hundred graves to be located on the pie shaped parcel, a loss to the Town of \$200,000 at the current rate..

The Cemetery Commissioners are definitely not in favor of losing this portion of land that we have utilized since the 1890's. In the past, the Town of Acton has taken actions to preserve or enhance the appearance of Mount Hope by the acquisition of property, including the removal of a house that once stood at 160 Central Street. Now, the Town is asked to approve a project that will create a development adjacent to the future burial areas of Mount Hope, something that detracts from the serenity of the area and claims that the cemetery does not have as much space as previously thought.

We urge you to take no action on this proposal until the Town of Acton resolves the land dispute, either through an independent review of the deeds and associated surveys or some manner that the Town Manager and Selectmen can decide on that guarantees the Town is not forfeiting property that they have had possession of for over a century.

We are enclosing a copy of the applicant's map that shows the approximate area of concern.

Respectfully submitted,

William Klauer, Chairman

Brewster Conant, Clerk

Barbara Walsh, Commissioner

Enclosure – map of proposed development with area of dispute

c.c..Town Manager – Stephen Ledoux
Board of Selectmen